

Chronicling the Use of Transparency and Accountability as Political Buzzwords, and as Drivers Ensuring the Standard of Access to Public Records in Canada is Best Practice

Interim Report 6.
**Responses of Ontario Premier Doug Ford and
Selected Cabinet Ministers to the Question: Do
You Agree that Citizens Are Entitled to Free,
Easy, Timely, and Direct Online Access to the
Public Records Held by Municipal Governments
in Ontario?**

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A. Background to Survey of Selected Conservative Politicians, Province of Ontario

Three publications provide context for the email communications to Conservative Premier Doug Ford and nine cabinet ministers regarding the question,

Do you agree that citizens are entitled to free, easy, timely, and direct online access to the public records held by held by municipal governments in Ontario?

The background publication titles and links are as follows:

- Who will end secrecy at city hall? Letter to the editor, Ottawa Citizen, October 19, 2018, p. A7.
<https://www.pressreader.com/canada/ottawacitizen/20181019/281621011311069>
- We need free, easy access to public records. Op-ed column, Ottawa Citizen, December 3, 2018. p. A9. <https://ottawacitizen.com/opinion/columnists/wellar-we-need-free-easy-access-to-public-records>
- With election ahead, we need to make public records truly public. The Conversation. January 2, 2019. <http://theconversation.com/with-election-ahead-we-need-to-make-public-records-truly-public-107645>

The first two publications preceded the survey email sent to Ontario's Premier on December 19, 2018, and to cabinet ministers over the next several days. The third article was published two weeks later on January 2, 2019.

The email is reproduced as context for the scorecard of responses from members of cabinet, Province of Ontario. The same text was sent to Premier Ford and to cabinet ministers.

In terms of how long to wait for the Premier and cabinet ministers to respond, there are several conditions which are most germane to deciding upon a cut-off date for the initial tally of responses.

That is, it is known, or should be known by all members of cabinet, that in Ontario "municipalities are creatures of the province".

Moreover, the line of questioning is expected to be fully familiar to all members of cabinet, some of whom were municipal politicians, and/or others of whom worked for municipal politicians.

And, of course, it is most likely that all members of cabinet know about the rancorous size-of-Toronto Council issue which dominated media coverage of the 2018 provincial election campaign, and the subsequent Conservative government action which reduced the size of the City of Toronto Council from 47 to 25 members.

Further, a number of members of cabinet actually expressed their regard for transparency and accountability in 2018 election campaign pitches.

As a result, given their familiarity with municipal governance, their connections to citizens as voters, and the Conservative party's 2018 election campaign slogan, "For the People", it seems that no member of the Ontario Cabinet should need more than about five minutes to review the materials, and another minute to compose and send an email which could be one word in length, that is, Yes or No.

All things considered the date of February 14, 2019 seems reasonable as the cut-off date for the initial set of responses.

This time frame fits the access project schedule, and the five-seven weeks between sending the survey emails and receiving email responses provide ample time for the least prepared as well as the most contemplative members of the Ontario Cabinet to respond to the question,

Do you agree that citizens are entitled to free, easy, timely, and direct online access to the public records held by held by municipal governments in Ontario?

B. Email Letter to Ontario Premier Doug Ford and Selected Cabinet Ministers, Access to Public Records Project

From: Barry Wellar [mailto:wellar.barry@gmail.com]

Sent: Wednesday, December 19, 2018 11:08 AM

To: doug.ford@pc.ola.org

Subject: Access to Public Records- Doug Ford, MPP

Doug Ford, Premier
Government of Ontario

Re: Op-ed column, *Ottawa Citizen*, 'Wellar: We need free, easy access to public records', Dec.3, 2018. <https://ottawacitizen.com/opinion/columnists/wellar-we-need-free-easy-access-to-public-records>

Dear Premier Ford,

As you may be aware, in the Province of Ontario “municipalities are creatures of the province”, which means that the Government of Ontario has the capacity to remove the costly, difficult, time-wasting, and tediously indirect barriers to data/information access which are currently in place in municipalities across Ontario and most notably in the City of Ottawa.

As per the op-ed column published in the Ottawa Citizen, I have outlined the reasons for such an initiative by governments in general, including the Government of Ontario. The purpose of this communication is to obtain your response to several particulars as they pertain to citizens having free, easy, timely, and direct online access to public records.

First, I look forward to learning at the earliest moment if you agree with the central thesis of the column, namely that citizens are entitled to free, easy, timely, and direct online access to the public records held by municipal governments in Ontario. In the event that you agree, I look forward to learning at the earliest moment what you and the Government of Ontario are doing to bring about the changes required to provide citizens free, easy, timely, and direct online access to the public records held by municipal governments in Ontario.

Similarly, I look forward to learning at the earliest moment if you disagree with the central thesis that citizens are entitled to free, easy, timely, and direct online access to the public records held by municipal governments in Ontario. In the interests of effective and efficient dialogue, please specifically address your explanation to each of the five conditions identified in the column, that is, free access; easy access; timely access; direct access; and online access.

Second, and in a related vein, I look forward to learning at the earliest moment if you agree with the proposition expressed in the column that “The right to free, easy, timely, and direct online access to public records is a defining feature of a free and democratic society, and would be an excellent addition to the Charter of Rights and Freedoms.” In the event that you agree, I look forward to learning what you and the Government of Ontario are doing to bring about the changes required to incorporate this clause in the Charter of Rights and Freedoms.

And, in the event that you do not agree with the statement, “The right to free, easy, timely, and direct online access to public records is a defining feature of a free and democratic society, and would be an excellent addition to the Charter of Rights and Freedoms.”, then I look forward to learning at the earliest moment the reasons for your disagreement. In the interests of effective and efficient dialogue, please specifically address your explanation to each of the five conditions identified in the column, that is,

free access; easy access; timely access; direct access; and online access, and explain why satisfying any condition is inconsistent with the intent of the Charter.

I regard this communication to be in the public interest, and you are welcome to circulate it as necessary in order to obtain advice, information, or materials to support your response.

Consistent with the thesis of the op-ed column, please respond via email.

Thank you.

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A similar email was sent to Cabinet Ministers Steve Clark, Susan Elliott, Vic Fedeli, Sylvia Jones, Lisa MacLeod, Monte McNaughton, Caroline Mulroney, Rod Phillips, and Jeff Yurek. Emails to some ministers were sent December 19, 2018, and others were sent January 6, 2019.

It appears fair to say that this is a very straightforward type of survey. That is, to start the investigation process each member of cabinet is asked if he or she agrees that citizens are entitled to free, easy, timely, and direct online access to the public records held by municipal governments in Ontario.

Then, depending upon the Yes or No response to the opening question, subsequent questions can be asked accordingly.

C. Scorecard of Yes or No Responses by Selected Members of Cabinet, Government of Ontario: Do you agree that citizens are entitled to free, easy, timely, and direct online access to the public records held by municipal governments in Ontario?

<u>Member of Cabinet</u>	<u>Response*</u>	<u>Date(s) Received</u>
Premier Doug Ford.....	NR	
Minister Steve Clark.....	NYNN	12/19/29018
Minister Susan Elliott.....	NYNN	02/06/2019
Minister Vic Fedeli.....	NYNN	01/11/2019
Minister Sylvia Jones.....	NR	
Minister Lisa MacLeod.....	NYNN	12/20/2018
Minister Monte McNaughton.....	NR	
Minister Caroline Mulroney.....	NR	
Minister Rod Phillips.....	NR	01/06/2019
Minister Jeff Yurek.....	NR	01/06/2019

***Legend: NO means NO; YES means YES; NYNN means NEITHER YES NOR NO; and NR means NO RESPONSE.**

D. Conclusion

Using the email approach enables confirmation that all communications were transmitted. Further, in the event that anyone listed believes that a response is improperly recorded, the problem of a deemed incomplete file can be readily rectified by re-sending the original email.

I believe the survey by email approach worked as intended, and actually serves as a pilot study test for the email communications to City of Ottawa Council, as well as those to Prime Minister Justin Trudeau, selected cabinet ministers, and MP-Chandra Arya (Lib.-Nepean), Government of Canada.

In particular, given the record of difficulty in obtaining straightforward answers from politicians at all levels of government, it is prudent to design questions in such a way that a YES or NO binary outcome must ultimately result.

That is, if by means of YES responses politicians support or agree with the proposition advanced, then the YES 'votes' are registered accordingly. However, if politicians do not support or agree with what is asked by means of YES 'votes', then by definition the default position applies and regardless of what is done or not done, said or not said, written or not written, etc., etc., the only option to YES is NO, and NO 'votes' are registered accordingly.

A future interim report will discuss the results of contacting selected federal Liberal politicians for feedback on the YES or NO binary outcome approach.

Finally, there are several types of correspondence between responses from Ontario politicians, federal politicians, and those of City of Ottawa politicians, which validated the design of the scorecard and the YES, NO, NO RESPONSE, and NEITHER YES NOR NO scoring system. This topic will be discussed in a future Interim Report.